

Notice of Allowability

Application No.

09/937,862

Examiner

Shanon Foley

Applicant(s)

OBERSTE ET AL.

Art Unit

1648

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 7/9/2004.
2. ☒ The allowed claim(s) is/are 1,2 and 6-11.
3. ☒ The drawings filed on 28 September 2001 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

It is currently noted that claim 2 of the instant amendment is dependent on claim 1 and that in the previous amendment, claim 2 was inadvertently dependent upon itself. It is determined that this claim has never been amended since the instantly presented claim 2 is an exact copy of the originally presented claim 2.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Gwendolyn D. Spratt (Registration No. 36,016) on July 23, 2004.

The application has been amended as follows to correct inadvertently omitted words in the amendment submitted July 9, 2004:

In claim 1, line 3, --RNA-- was inserted after "purifying".

In claim 1, line 4, --transcribing-- was inserted after "reverse".

In claim 1, line 5, --provide-- was inserted after "to".

In addition, claim 8 has been amended to depend on claim 1 to avoid repetition of the limitations recited in claim 7.

The following is an examiner's statement of reasons for allowance:

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As stated previously, the prior art does not teach or suggest a primer comprising SEQ ID NO: 19 or using a primer comprising SEQ ID NO: 22 with a primer comprising SEQ ID NO: 19.

The prior art also does not teach or suggest the use of SEQ ID NO: 86 in combination with SEQ ID NO: 83, SEQ ID NO: 84 or SEQ ID NO: 85. The prior art does not teach or suggest SEQ ID NO: 83 or SEQ ID NO: 84.

Regarding SEQ ID NO: 85, US 6,551,795 teaches SEQ ID NO: 19947, which has 100% sequence identity to the instant SEQ ID NO: 85, see the sequence alignment provided. However, US 6,551,795 does not teach or suggest this sequence in combination with the instant SEQ ID NO: 86.

In addition, the sequence of SwissProt database accession no: P12915 submitted October 1, 1998, possesses 100% sequence identity to the instant SEQ ID NO: 85, see the sequence alignment provided. However, there is no teaching or suggestion for using this sequence in combination with SEQ ID NO: 86, which is required by the instant claim 6.

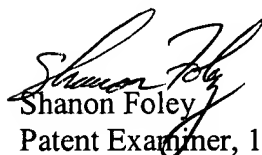
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shanon Foley whose telephone number is (571) 272-0898. The examiner can normally be reached on M-F 9:30 AM - 6:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Housel can be reached on (571) 272-0902. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Shanon Foley
Patent Examiner, 1648